

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2010081084

ORDER FOLLOWING PRE-HEARING
CONFERENCE

On August 30, 2010, Student filed a Due Process Hearing Request (Complaint), naming the Los Angeles Unified School District (District). On November 8, 2010, a telephonic pre-hearing conference (PHC) was convened by Administrative Law Judge (ALJ) Adeniyi A. Ayoade, Office of Administrative Hearings (OAH). Julie Hall, District's Representative, appeared on behalf of District. Melinda Gillinger, Advocate for Parent, did not appear.¹ The PHC was recorded.

Based on the discussion with District, the ALJ issues the following order:

1. Motion to Amend. On November 8, 2010, Student filed a motion to amend his complaint, together with an amended complaint (amended complaint). At the PHC, the motion was discussed, and District indicates that it does not oppose Student's motion.

An amended complaint may be filed when either (a) the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or (b) the hearing officer grants permission, provided the hearing officer may grant such permission at any time more than five days prior to the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i)(II).)² The filing of an amended complaint restarts the applicable timelines for the due process hearing. (§1415(f)(1)(B).)

¹ The Parent's Advocate could not be reached. Also, the ALJ had significant difficulty reaching District's representative, Ms. Hall. She explained that District was aware that Student filed a request to amend his complaint, and parties had assumed that the PHC was taken off calendar. **The ALJ hereby advises parties that parties should assume that all calendared events will proceed, unless OAH has issued an order granting a continuance.**

² All statutory citations are to Title 20 United States Code unless otherwise indicated.

The due process hearing in this matter is currently scheduled to begin on November 16, 2010. Further, the amendment of the complaint is not opposed by District. Therefore, Student's motion to amend is appropriate and timely. Pursuant to Section 1415(c)(2)(E), all applicable timelines recommence upon the filing of the amended complaint. The parties may agree to hold mediation on any date they prefer prior to the due process hearing.

OAH will issue a scheduling order with the new dates.

ORDER

1. The motion to amend the due process complaint is granted.
2. The amended complaint is deemed filed on the date of this order.
3. All applicable timelines shall recommence as of the date of this order.

IT IS SO ORDERED.

Dated: November 9, 2010

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings